



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2020-0620; FRL-10017-81-Region 7]

**Air Plan Approval; Missouri; Removal of Control of Emissions
from Solvent Cleanup Operations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Missouri on January 15, 2019, and supplemented by letter on June 14, 2019. Missouri requests that the EPA remove a rule related to control of emissions from the solvent cleanup operations in the Kansas City, Missouri area from its SIP. This removal does not have an adverse effect on air quality. The EPA's proposed approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2020-0620 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including

any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7714; email address: stone.william@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2020-0620 at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve the removal of 10 Code of State Regulations (CSR) 10-2.215, *Control of Emissions from Solvent Cleanup Operations*, from the Missouri SIP.

According to the June 14, 2019 letter from the Missouri Department of Natural Resources, available in the docket for this proposed action, Missouri rescinded the rule because there are no sources subject to the rule, and the rule is no longer

necessary for attainment and maintenance of the 1979, 1997, or 2008 National Ambient Air Quality Standards (NAAQS) for Ozone.

III. Background

The EPA established a 1-hour ozone NAAQS in 1971. 36 FR 8186 (April 30, 1971). On March 3, 1978, the EPA designated Clay, Platte and Jackson counties (hereinafter referred to in this document as the "Kansas City Area") in nonattainment of the 1971 1-hour ozone NAAQS,¹ as required by the CAA Amendments of 1977. 43 FR 8962 (March 3, 1978). On February 8, 1979, the EPA revised the 1-hour ozone NAAQS, referred to as the 1979 ozone NAAQS. 44 FR 8202 (February 8, 1979). On February 20, 1985, the EPA notified Missouri that the SIP was substantially inadequate (hereinafter referred to as the "SIP Call") to attain the 1-hour ozone NAAQS in the Kansas City Area. See 50 FR 26198 (July 25, 1985).

¹ Missouri's June 14, 2019 letter incorrectly states that the Kansas City area was designated as a nonattainment area for the 1979 ozone NAAQS in 1978.

To address the SIP Call, Missouri submitted an attainment demonstration on May 21, 1986, and volatile organic compound (VOC) control regulations on December 18, 1987. See 54 FR 10322 (March 13, 1989) and 54 FR 46232 (November 2, 1989). The EPA subsequently approved the revised control strategy for the Kansas City Area. See *id.*

The EPA redesignated the Kansas City Area to attainment of the 1979 1-hour ozone standard and approved the ozone maintenance plan on July 23, 1992. 57 FR 27939 (June 23, 1992). Pursuant to section 175A of the CAA, the first 10-year maintenance period for the 1-hour ozone standard began on July 23, 1992, the effective date of the redesignation approval.

In 1995, the Kansas City area violated the 1979 1-hour ozone standard. Missouri revised the control strategy and contingency measures in the maintenance plan, which was approved on June 24, 2002. 67 FR 20036 (April 24, 2002). The revised control strategy included a newly promulgated RACT rule, 10 CSR 10-2.215, *Control of Emissions from Solvent Cleanup Operations*.

On April 30, 2004, the EPA published a final rule in the *Federal Register* stating the 1979 ozone NAAQS would no longer apply (i.e., would be revoked) for an area one year after the effective date of the area's designation for the 8-hour ozone NAAQS. 69 FR 23951 (April 30, 2004). The Kansas City Area was designated as an unclassifiable area for the 1997 8-hour ozone NAAQS, effective June 15, 2004. See *id.* However, on May 3, 2005, EPA published a final rule designating the Kansas City Area as

an attainment area for the 1997 8-hour ozone NAAQS based on new monitoring data. See 70 FR 22801 (May 3, 2005). The effective date of the revocation of the 1979 1-hour ozone standard for the Kansas City Area was June 15, 2005. See 70 FR 44470 (August 3, 2005). Missouri achieved the required maintenance of the 1979 1-hour ozone standard in 2014.

As noted above, 10 CSR 10-2.215, *Control of Emissions from Solvent Cleanup Operations*, was approved into the Missouri SIP as a RACT rule, effective May 24, 2002. 67 FR 20036 (April 24, 2002). At the time that the rule was approved into the SIP, 10 CSR 10-2.215 applied to any person in the Clay, Jackson and Platte Counties in Missouri that performs or allows the performance of any cleaning operation involving the use of a VOC solvent or solvent solution that emitted over 500 pounds per day of VOCs. The rule stated that once a source was subject to the rule, it would remain subject to the rule even if actual emissions drop below the 500 pounds per day of VOCs applicability level.

The rule also contains a list of operations that are exempt from the rule:

1. Cold cleaner;
2. Open top vapor degreaser;
3. Conveyorized cold cleaners;
4. Conveyorized vapor degreaser;
5. Nonmanufacturing area cleaning. Nonmanufacturing areas include cafeterias, laboratories, pilot facilities,

restrooms, and office buildings;

6. Cleaning operations for which there has been made a best available control technology, reasonably available control technology, or lowest achievable emission rate determination; and

7. Cleaning operations which are subject to the Aerospace National Emission Standards for Hazardous Air Pollutant Standards source category, under 40 CFR part 63, subpart GG.

By letter dated January 15, 2019, Missouri requested that the EPA remove 10 CSR 10-2.215 from the SIP. Section 110(l) of the CAA prohibits EPA from approving a SIP revision that interferes with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA. The State supplemented its SIP revision with a June 14, 2019 letter in order to address the requirements of section 110(l) of the CAA.

IV. What is the EPA's Analysis of Missouri's SIP Revision

Request?

A. 10 CSR 10-2.215 applied to existing sources

In its June 14, 2019 letter, Missouri states that it intended its RACT rules, such as 10 CSR 10-2.215, to solely apply to existing sources in accordance with section 172(c)(1) of the CAA.² Missouri states that although the applicability

² The EPA agrees with Missouri's interpretation of CAA section 172(c)(1) in regards to whether RACT is required for existing sources, but also notes that the State regulation establishing RACT may apply to new sources as well, dependent upon the State regulation's language.

section of 10 CSR 10-2.215 states that the rule applies to all persons who perform or allow the performance of cleaning operations that emit over 500 pounds per day of VOCs in Clay, Jackson and Platte Counties, the rule applied only to existing sources.

The EPA notes that the rule required a 30% reduction in plant-wide industrial VOC cleaning solvent emissions by May 1, 2003, based on emissions in 1997 and 1998. This provides support for Missouri's assertion that the rule was intended to apply to existing sources, despite the language in the rule that states that it is applicable to any solvent cleaning operation in Clay, Jackson and Platte counties that emit VOCs above the applicability threshold.

B. 10 CSR 10-2.215 was expected to be solely applicable to the Ford Motor Company's Kansas City Assembly Plant

Missouri states that at the time of the rule's promulgation, the state expected that the rule would apply to a single existing source, the Ford Motor Company's Kansas City Assembly Plant (hereinafter "Ford facility"). Missouri states that this is supported by a fiscal note in its rulemaking record that indicates that the rule applies to one automobile manufacturer.

The EPA has reviewed the April 16, 2001 Missouri Register, Vol. 26, No. 8, available in the docket for this proposed action, and notes that the Ford Motor Company commented on Missouri's promulgation of the rule concerning the costs of the

rule. In addition, Missouri's 1998 revision to the Kansas City Maintenance SIP for the 1979 Ozone NAAQS (hereinafter "1998 Revision"), available in the docket for today's action, indicates that one major source that would be affected by the solvent cleaning regulation was the Ford Motor Company in Kansas City. The 1998 Revision states that the Ford facility reported 909.5 tons of VOC emissions in 1994, and estimated that the rule would reduce VOC emissions by 30%, or 272.8 tons per year in the Kansas City area. Based upon Missouri's rulemaking history associated with promulgation of 10 CSR 10-2.215, and the 1998 Revision, the EPA agrees that the Ford facility was the only source expected to be subject to the rule.

C. 10 CSR 10-2.215 does not reduce VOC emissions and may be removed from the SIP

The EPA notes that the text of 10 CSR 10-2.215 states that once a source exceeds the applicability level of 500 pounds of VOC emissions per day, it remains subject to the rule even if actual emissions drop below the applicability level of the rule. However, this does not prohibit Missouri from rescinding the rule if it can demonstrate that the rescission of the rule does not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA, as required by Section 110(1) of the CAA.

The EPA has reviewed the Ford facility's 2008 Operating Permit number OP2008-044, and the 2015 Operating Permit number

OP2014-035, available in the docket for this proposed action. The operating permits do not list any solvent cleaning operations at the facility that are subject to 10 CSR 10-2.215, *Control of Emissions From Solvent Metal Cleaning*, and state that the rule is not applicable to the Ford facility. The Operating Permit states that emission point (EP) 42's miscellaneous solvent use related to maintenance activities including non-manufacturing area cleaning, facility painting, and other activities at the facility is exempt pursuant to 10 CSR 2.215(1)(C). 10 CSR 2.215(1)(C) exempts nonmanufacturing area cleaning which include cafeterias, laboratories, pilot facilities, restrooms, and office buildings.

The documentation submitted by Missouri provides evidence that at least at the time that 10 CSR 10-2.215 was proposed, both Missouri and Ford expected that the Ford facility would be subject to the rule, and Missouri expected that the Ford facility would be the only source subject to the rule. According to Ford's Emissions Inventory Questionnaire (EIQ), VOC emissions from EP-42 were 428.36 tons in 1997, and 239.46 tons in 1998. However, before 10 CSR 10-2.215 was promulgated, Ford reduced its VOC emissions from EP-42 to 8.18 tons in 2000, and emissions from EP-42 have since remained well below the applicability threshold of the rule, such that Ford was never subject to the rule's requirements. Therefore, the EPA agrees that the rule does not limit or reduce emissions of VOCs from any source in the Kansas City Area.

Missouri's June 14, 2019 letter states that any new sources or major modifications of existing sources are subject to new source review (NSR) permitting. Under NSR, a new major source or major modification of an existing source with a (potential to emit) PTE of 250 tons per year (tpy) or more of any NAAQS pollutant is required to obtain a Prevention of Significant Deterioration (PSD) permit when the area is in attainment or unclassifiable, which requires an analysis of Best Available Control Technology (BACT) in addition to an air quality analysis and an additional impacts analysis. Sources with a PTE greater than 100 tpy, but less than 250 tpy, are required to obtain a minor permit in accordance with Missouri's New Source Review permitting program, which is approved into the SIP.³ The EPA agrees with this analysis.

Missouri's June 14, 2019 letter also includes information concerning ozone air quality in the Kansas City area from 1996 through 2018 that indicates a downward trend in monitored ozone design values. Missouri states that despite promulgation of more stringent ozone NAAQS in 1997, 2008 and 2015, the Kansas City area continues to monitor attainment. The EPA has confirmed that certified ambient air quality data for Kansas City Area as monitored at the Rocky Creek, Clay County state and local air monitoring station is compliant with the most recent ozone

³ EPA's latest approval of Missouri's NSR permitting program rule was published in the *Federal Register* on October 11, 2016. 81 FR 70025.

standard- the 2015 ozone NAAQS.⁴ The 2016-2018 design value for that monitor is 70 parts per million.⁵

As stated above, Section 172(c)(1) of the CAA requires RACT for existing sources. Because Missouri has demonstrated that removal of 10 CSR 10-2.215 will not interfere with attainment of the NAAQS, RFP⁶ or any other applicable requirement of the CAA because there are no existing sources that are subject to the rule, and therefore removal of the rule will not cause VOC emissions to increase, the EPA proposes to approve removal of 10 CSR 10-2.215 from the SIP.

V. Have the Requirements for Approval of a SIP Revision Been Met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from February 28, 2018, to April 5, 2018 and received five comments from the EPA that related to Missouri's lack of an adequate demonstration that the rule could be removed from the SIP in accordance with section 110(1) of the CAA. Missouri's June 14, 2019 letter addressed the EPA's comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

⁴ In accordance 40 CFR 50.19(b), the 2015 8-hour primary O₃ NAAQS is met at an ambient air quality monitoring site when 3-year average of the annual fourth-highest daily maximum 8-hour average O₃ concentration is less than or equal to 0.070 ppm, as determined in accordance with appendix U to 40 CFR part 50.

⁵ The monitoring data was reported, quality assured, and certified in accordance with the requirements set forth in 40 CFR part 58.

⁶ RFP is not applicable to the Kansas City Area because the area is in attainment of all applicable ozone standards.

VI. What Action is the EPA Taking?

The EPA is proposing to approve Missouri's request to rescind 10 CSR 2.215 from the SIP because the rule applied to a single source that has permanently ceased operations and because the rule was not applicable to additional sources, it no longer serves to reduce emissions. Additionally, the maintenance period for the 1979 ozone NAAQS for the Kansas City Area ended in 2014 and the area continues to monitor attainment of the 2015 Ozone NAAQS. Any new sources or major modifications of existing sources in the Kansas City Area are subject to NSR permitting. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, the EPA is proposing to remove provisions of the EPA-Approved Missouri Regulation from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to

approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: December 14, 2020.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart-AA Missouri

2. In §52.1320, the table in paragraph (c) is amended by removing the entry "10-2.215" under the heading "Chapter 2-Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area".

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